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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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10 KIMBERLY D. ROBERTS,

No. C 08-05787 WHA

11 Plaintiff,

12 v.

**ORDER VACATING HEARING
ON MOTION TO DISMISS**

13 SF CITY & COUNTY,

14 Defendant.
15 _____/


16 The undersigned has given *pro se* plaintiff Kimberly D. Roberts every opportunity to
17 prosecute her employment discrimination case against defendant. Plaintiff was granted leave to
18 proceed *in forma pauperis*, and was provided with a copy of the Pro Se Litigant Handbook and a
19 flyer for the Legal Help Center at the initial case management conference (Dkt. Nos. 5, 22).
20 Extensions have been granted, and deadlines stretched, to ensure plaintiff can fairly present her
21 arguments (Dkt. Nos. 20, 27, 29). This action, however, has reached an impasse. Plaintiff refuses
22 to submit to a deposition, and has been unresponsive to defendant's reasonable discovery
23 requests, communication attempts, and court orders requiring compliance (Dkt. Nos. 24, 27,
24 29–33). While plaintiff persists in citing her *pro se* status as justification for defying discovery,
25 plaintiff has been warned *repeatedly* that this is *not a valid excuse* to sidestep depositions (Dkt.
26 Nos. 27, 30, 33). Plaintiff has also received three separate warnings from the undersigned that
27 failure to participate in the discovery process will result in dismissal of her case with prejudice
28 (Dkt. Nos. 27, 30, 33). Defendant's motion to dismiss represents the culmination of these events.

1 Since a timely opposition to defendant's motion to dismiss has not been received by
2 December 17, 2009, the hearing on the motion set for January 7, 2010, is hereby **VACATED**. The
3 Court will wait patiently until **WEDNESDAY, DECEMBER 30, 2009**, for any opposition sent by
4 plaintiff via standard mail to be received and filed. If an opposition is filed by that date,
5 defendant will have **SEVEN CALENDAR DAYS** from the date the opposition is filed to submit a
6 reply.

7 If a hearing is necessary to rule on the motion, one will be noticed. Otherwise, the
8 undersigned will issue a ruling on the papers without a hearing.

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10 **IT IS SO ORDERED.**

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12 Dated: December 18, 2009.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE